IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

CRL.A.No. 656 of 1999

ST.72/1994 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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APPELLANT/COMPLAINANT:

V. NARAYANAN NAIR, GAYATHRI BHAVAN, LEKSHMI NAGAR, LIC LANE, PATTOM, KOWDIAR VILLAGE.

BY ADV. SRI.M.BALAGOVINDAN
SRI.VINOD J.DEV

RESPONDENTS/ACCUSED:

1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. D. MOHANAN, B.S.T. MAVELIKKARA DEPOT, K.S.R.T.CORPORATION

BY PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl.A. No. 656 of 1999

Dated this the 31st day of January, 2007

Judgment

Appellant filed a complaint under section 138 of the Negotiable Instruments Act contending that the cheque given by the accused for Rs.30,000/- in discharge of his liability was dishonoured for the reason that the account was closed. The complaint was rejected and accused was acquitted solely on the ground that the account was closed on issuance of the cheque. Despite service of notice, accused did not appear before this court. The Supreme Court in NEPC Micon Ltd. and others v. Magma Leasing Ltd. (AIR 1999 SC 1952) held that even if the account is closed, complaint under section 138 will lie. In the above circumstances, the impugned judgment is set aside and the matter is remanded to the court below.

The complainant may appear before the trial court on 26.3.2007. Trial court shall intimate the date of posting to the advocate appearing for the accused before the trial court. Appeal is allowed by way of remand.

J.B. KOSHY
(JUDGE)

vaa

J.B.Koshy J.

Crl.A.No.656 of 1999

Judgment

31-1-2007